



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/847,711	04/28/97	CHAO	MK1718WWD

MM11/0511
SHELDON R. MEYER, ESQ.
FLIESLER, DUBB, MEYER & LOVEJOY, LLP
FOUR EMBARCADERO CENTER, SUITE 400
SAN FRANCISCO, CA 94111-4156

EXAMINER

DANG, H

ART UNIT	PAPER NUMBER
----------	--------------

2873

15

DATE MAILED: 05/11/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/847, 711

Applicant(s)

CHAO

Examiner

DANG

Group Art Unit

2873

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 2/9/99 and 4/12/99.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 2-7 and 9-15 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 2-7 and 9-15 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 12
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 2873

1. The amendment filed on 4/12/99 has been entered.

Information Disclosure Statement

2. The Information disclosure Statement filed on 4/12/99 has been considered.

Claims Rejection Under 35 USC - 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over by **Chao** (5,737,054).

Chao '054 disclose that a primary frame (10) including a first bridge (13), the first bridge (13) including a first magnetic (14), an auxiliary lens frame (20) having a second bridge (21) having an arm (22) extended rearward toward the primary frame (10) and extend over the first bridge (13), the arm including a rear end having a flange (24) extended downward for

Art Unit: 2873

engaging with the first bridge and for securing the auxiliary frame to the primary frame, the flange (24) including a second magnet for engaging with the first magnet (14) and for securing the auxiliary frame to the primary frame. (See figures 1, 2 and 4 and the related disclosure). The difference between the claimed invention and the Chao device is the arrangement of the magnets. Claims 7, 13 and 15 recite that the second magnet being connected laterally with the first magnet whereas Chao disclose the second magnet being connected vertically with the first magnet.

Although the Chao device does not teach the exact the arrangement of the magnet as that claimed by Applicant, the arrangement differences are considered obvious design choices and are not patentable unless unobvious or unexpected results are obtained from these changes. It appears that these changes produce no functional differences and therefore would have been obvious.

Claims Rejection Under 35 USC - 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

Art Unit: 2873

art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-6, 9-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Chao** (5,737,054) in view of **Chao** (5,568,207).

Chao '054 disclose all elements of the claimed invention, as is noted in claims 7,13 and 15 above. Chao '054 does not disclose that two side of the auxiliary frame each having an extension extended rearward toward the primary frame and extended over one of the studs, the extensions each including a rear end having a first flange extended downward.

Chao '207, however, discloses that two side of the auxiliary frame (20) each having an extension (21) extended rearward toward the primary frame (10) and extended over one of the studs (11), the extensions (21) each including a rear end having a first flange (22) extended downward (please see figure 15).

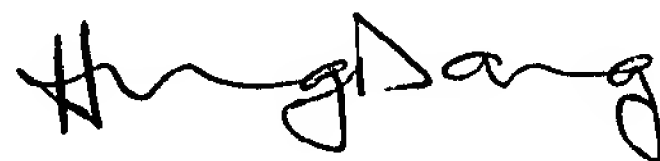
Because Chao '054 and Chao '207 are both from the same field of endeavor, the purpose of preventing the auxiliary spectacle frame from moving downward relative to the primary frame as disclosed by Chao '207 would have been recognized as an art pertinent art of Chao '054.

It would have been obvious, therefore, at the time the invention was made to a person having skill in the art to

Art Unit: 2873

construct the auxiliary lenses for eyeglasses, such as the one disclosed by Chao '054, with two side of the auxiliary frame each having an extension extended rearward toward the primary frame and extended over one of the studs, the extensions each including a rear end having a first flange extended downward, such as disclosed by Chao '207 for the purpose of preventing the auxiliary spectacle frame from moving downward relative to the primary frame.

5. Any inquiry concerning this communication should be directed to Examiner Dang at telephone number (703) 308-0550.



5/99

HUNG DANG

PRIMARY EXAMINER

TECHNICAL CENTER 2800